

Law Offices of Allen M. Leung

KNOWLEDGE IS POWER!

May 2011 Newsletter

Sale of a Primary Home

Under the current law, if you sell your “primary residence,” you can have \$250,000 of capital gains exemption (single person) and \$500,000 cap gains exemption for married couples. And what is meant by “primary residence?” Actually, the definition favors taxpayers.

In simple terms, you just need to live in a house 2 out last 5 years to be considered “primary.” It does NOT need to be consecutive – just need to add up to 730 days. So for example, you are selling your house and the house **closes escrow** on June 15, 2011. Go back 5 years (i.e. to June 15, 2006), now ask yourself: did you live there for at least 2 years (730 days)? If yes, your capital gains of up to \$250K (single) and \$500K (married) will be EXEMPT.

Thus, you can live there for 2 years, rent out for 3 years and that still counts as “primary residence.” Many people thought you must live there at the time of the sale. As discussed above, that is NOT true.

2-Year Coupon

So how often can you sell your “primary residence” and gain the capital gains exemption benefit? Answer: once every 2 years. More specifically, using the above example, if you sell your “primary residence” on June 15, 2011, then you cannot claim another \$250K/\$500K cap gains exemption until after June 15, 2013. Thus, it works exactly like a 2-year coupon.

Change of Characteristic from “Investment” to “Primary Residence”?

One very common question I receive is that: Is it possible to change the “characteristic” of a parcel of real estate from “Investment” to “Primary Residence”? The answer is “Yes,” if your **initial intent** was investment but later changed your intent to primary residence. For example, if you purchase your property for investment purposes initially, but had a change of mind later, then yes you can “**convert**” that property to a “primary residence” later.

Finally, it goes without saying that the parcel in question should be residential, and not commercial.



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